

- (2) Adequacy of collateral; and
- (3) The term of the Guarantees.

**§ 298.18 Financing Advanced or Modern Shipbuilding Technology.**

(a) *Initial criteria.* The Secretary may approve Guarantees issued to finance Advanced or Modern Shipbuilding Technology at a General Shipyard Facility. The Secretary will approve such Guarantees after consideration of the following factors: whether the Guarantees will aid in the transition from naval shipbuilding to commercial ship construction for domestic and export sales, will encourage shipyard modernization, and/or will support increased productivity. The applicant shall provide a detailed statement with the Guarantee application which will provide the basis for such consideration by the Secretary.

(b) *Other conditions.* Applications for loan guarantees under this section shall not be approved unless the Secretary determines that the following requirements have been met:

(1) The term for such Guarantees will not exceed the reasonable economic useful life of the collective assets which comprise this technology, as determined by the Secretary;

(2) There is sufficient collateral to secure the Guarantee; and

(3) Approval of the application will not preclude approval of any other pending application for Advanced or Modern Shipbuilding Technology Guarantees which, in the sole opinion of the Secretary, would result in a more desirable use of appropriated funds. The Secretary's opinion will take into consideration such factors as the types of vessels which will be built by the shipyard, the productivity increases which will be achieved, the geographic location of the shipyard, the long-term viability of the shipyard, the soundness of the financial transaction, any financial impact on other Title XI transactions, and the furtherance of the goals of the Shipbuilding Act.

**§ 298.19 Financing Eligible Export Vessels.**

(a) *Transmittal to Secretary of Defense.* Upon receiving an application for a loan Guarantee for an Eligible Export Vessel, the Secretary shall promptly

provide to the Secretary of Defense notice of the receipt of the application. During the 30-day period beginning on the date on which the Secretary of Defense receives such notice, the Secretary of Defense may disapprove the loan guarantee based on the assessment of the Secretary of Defense of the potential use of the Vessel in a manner that may cause harm to United States national security interests. The Secretary of Defense may not disapprove a loan Guarantee under this section solely on the basis of the type of vessel to be constructed with the loan Guarantee. The authority of the Secretary of Defense to disapprove a loan Guarantee under this section may not be delegated to any official other than a civilian officer of the Department of Defense appointed by the President, by and with the advice and consent of the Senate. The Secretary of Transportation may not make a loan guarantee disapproved by the Secretary of Defense.

(b) *Determinations by the Secretary.* (1) If the loan Guarantee commitment cost of any such Vessel is made available from funds transferred from the Secretary of Defense pursuant to section 108 of the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. 103–160, 107 Stat. 1547), the Vessel must be of at least 5,000 gross tons and found by the Secretary to be commercially marketable on the international market. Vessels of less than 5,000 gross tons can receive Guarantees with funds appropriated to the Department of Transportation.

(2) Such Guarantees shall not be approved unless:

(i) The Secretary finds that the construction, reconstruction or reconditioning of the Vessel will aid in the transition of United States shipyards to commercial activities or will preserve shipbuilding assets that would be essential in time of war or national emergency; and

(ii) The owner of the Vessel agrees with the Secretary that the Vessel shall not be transferred to any country designated by the Secretary of Defense as a country whose interests are hostile to the interests of the United States.